

## Introduction

Claims 1-34 are pending in the present application. Claims 1, 15, 19, 22, 27, 29 and 32 are the independent claims. The claims have not been amended. In addition to demonstrating the patentability of the independent claims, applicant also argues that the dependent claims, including, for example, Claims 7, 18, and 34, are also patentable.

Prior to discussing in detail the reasons for allowance of all the claims, applicant provides the following brief description of the cited and applied references, including the new reference to Zigmond et al., to help the Office better appreciate important claim distinctions discussed thereafter.

## Summary of Hite et al.

The system of Hite et al. focuses on the preemption of commercials. In the system of Hite et al., sets of advertisements are prepared so that they are suitable for the transmission and storage. Each commercial is analyzed as to its nature and focus and a commercial identifier (CID) code is appended. The messages are then delivered to the point of usage.

Commercials can be classified into three categories: (1) non-preemptable; (2) conditionally preemptable; or (3) unconditionally preemptable. For example, commercials and programs not participating in the system and process would be non-preemptable. Some commercials and programs which are eligible for preemption may also be non-preemptable under some circumstances. These are called conditionally preemptable. An example of such a situation may be that a competitor's product may not be used to preempt. One brand of automobile may be precluded from substituting for another brand of automobile. An unconditionally preemptable commercial may be subject to substitution at any time other higher priority commercials are available. In locations not equipped with hardware which implements the system and process, the preemptable commercials are displayed.

Commercials which are subject to preemption are embedded in programs along with a version of the CID to indicate under what circumstances a more suitable commercial may be substituted. A suitable process is used to target prospective viewers of a set of advertisements using database search and list selection procedures. The result of this process is a set of appropriate CID codes for the prospective viewers. These CID codes are transmitted to the viewing device and stored. At the point of usage, a commercial processor is programmed to find and analyze the CID codes in each commercial. When a match between the CID in the commercial and the CID transmitted and stored at the point of use is found, the advertisement is then presented to the viewer.

Summary of Bendinelli et al.

The system of Bendinelli et al. transmits uniform resource locators (URLs) or the network information identifiers with television signals in order to permit Web content to be displayed in synchronization with television programming. Illustratively, URLs are embedded in a closed captioned portion of a transmitted television signal and delimited from the close captioned text using predetermined delimiting characters. A decoder extracts the URL from the television signal and supplies the URL to a retrieval device which automatically retrieves corresponding Web pages or other similar information over a network. The retrieved Web pages are then displayed to a viewer in synchronization with related programming in the television signal. The retrieval device may be a set-top box associated with a television set that displays both a retrieved Web page and the corresponding television picture portion of the television signal. Alternatively, the retrieval device may be a computer which retrieves and displays a Web page while the corresponding television picture is displayed on a television set.

### Summary of Hinderks

The system of Hinderks focuses on broadcasting or multicasting digital data using an IP protocol to generate IP digital data, which is then transmitted from a multicast content source site to a remote Internet point-of-presence (POP) through a dedicated transmission channel substantially separate from the Internet backbone. Local commercials and/or other IP digital data may be inserted into the received IP digital data stream at the remote Internet POP. The IP digital data signal stream received at the POP may also be stored and/or delayed at the POP for a later playback and broadcasting/multicasting to recipients having a computer or other IP data receiving equipment connected to the Internet distal from the POP.

### Summary of Alexander et al.

The system of Alexander et al. focuses on electronic programming guides by providing viewer interaction capabilities with the electronic programming guides; viewer control of video recording of future-scheduled programming; features to the electronic programming guides display and navigation; parental control of the electronic programming guide's display; television program information accessed by the viewer; opportunities for the commercial advertiser to reach the viewer; product information accessed by the viewer; creation of a viewer's profile; utilization of viewer profile information to customize various aspects of the electronic programming guide; and utilization of viewer profile information to customize presentation of advertising to the viewer.

### Summary of Zigmond et al.

The system of Zigmond et al. is directed to selecting and inserting advertisements into a video programming feed at a household level. The advertisement insertion device in a home entertainment system receives a plurality of advertisements from an advertisement source. The advertisement insertion device selects one of the advertisements for display to a viewer

according to advertisement selection criteria combined with viewer and system information. The video programming is displayed to a viewer while the advertisement insertion device monitors the programming feed for a triggering event indicating an appropriate time to display the selected advertisement. At the appropriate time, the video programming feed is interrupted and the selected advertisement is displayed.

The ad selection criteria may be set or modified by the viewer in order to request or block advertisements for selected classes of goods or services. This optional feature of Zigmond et al. allows the viewer to participate in a selection of advertisements. In an extreme case, the ad selection criteria may be modified in response to, for example, increased subscription fees from the viewer in order to allow the viewer to forgo advertisements altogether. In this case, advertisements may be replaced by entertainment, informational, or any other programming.

#### The Present Application

The Office has not shown, and applicant is unable to find, where the cited and applied references, either alone or in combination, disclose the subject matter of the claimed invention.

#### Claims 1-14

For example, independent Claim 1 recites as follows:

1. A method, comprising:  
    sending one or more television signals to a client terminal via a  
    first channel of a communication network, wherein prior to being sent to  
    the client terminal, the television signal includes information related to a  
    first advertisement present in the television signal;  
    aggregating information related to a second advertisement;

sending at least some of the aggregated information related to the second advertisement to the client terminal via a second channel of the communication network;

correlating the information related to the first advertisement to the information related to the second advertisement; and

swapping the first advertisement with the second advertisement if a subscriber has elected to receive substitute advertisement services and if there is a match in the correlated information, including replacing link information associated with the first advertisement with link information associated with the second advertisement.

At a minimum, none of the cited and applied references teaches "swapping the first advertisement with a second advertisement if a subscriber has elected to receive substitute advertisement services," as recited in Claim 1.

To reject Claim 1, the Office has attempted to combine Hite et al. with a number of references, all of which combinations applicant specifically denies. Specifically, the Office has sought to combine Hite et al. with Bendinelli et al., but because Bendinelli et al. does not disclose a facility by which a subscriber can elect to receive substitute advertisement services, Bendinelli et al. cannot cure the defects of Hite et al. To cure this problem, the Office further sought to combine Hite et al. and Bendinelli et al. with Zigmond et al. However, Zigmond et al. fails to disclose anything about "swapping [a] first advertisement with [a] second advertisement if a subscriber has elected to receive substitute advertisement services."

In Zigmond et al., all of the viewers are subject to the targeted advertising. Advertising is delivered to different viewers according to ad selection criteria. See Col. 6, lines 6-12 of Zigmond et al. The ad selection criteria takes into account viewer demographic information.

This information may be collected from third party sources and/or from the viewer. See Col. 10, lines 35-39 and 52-55, and Col. 11, lines 50-53. "In general, the ad selection rules may be designated in any desired way so as to effectively target individuals that belong to a desired segment of the viewing population." (Col. 11, lines 62-65).

At best, according to Zigmond et al., viewers are able to provide input that *modifies* the ad selection criteria, but in no case is there a suggestion of a method or system in which viewers can opt-in or otherwise elect to receive targeted advertising.

The Office relied on Zigmond et al. citing, in particular, Col. 14, lines 24-35, which reads as follows:

The ad selection criteria may be set or modified by the viewer, as well, in order to request or block advertisements for selected classes of goods or services. This optional feature of the invention advantageously allows the viewer to participate in a selection of advertisements. In an extreme case, the *ad selection criteria 83 may be modified* in response to, for example, increased subscription fees from the viewer in order to allow the viewer to forego advertisements altogether. In this case, advertisements may be replaced by entertainment, informational, or any other programming. (Emphasis added).

Viewers using the system of Zigmond et al. do not elect to receive substitute advertisement services. All viewers are subject to the targeted advertising. A viewer can request advertisements for selected classes of goods or services, but this does not specify that the viewer has had an opportunity to elect to receive substitute advertisement services in the first place.

Zigmond et al. further discloses that a viewer can pay additional subscription fees to forego advertisements altogether, but this feature does not teach the act of *swapping a first*

*advertisement with a second advertisement if a subscriber has elected to receive substitute advertisement services.* To the contrary, it teaches withholding advertising to those who pay the additional subscription fees. In contrast, the claimed invention engages in the swapping of advertisements if a subscriber has elected to receive such a service. This feature is described in the present application, e.g., at page 15, lines 1-8.

Neither Zigmond et al. nor the other cited and applied references disclose the claimed invention. Again, Zigmond et al. only addresses ways in which a viewer can modify what is being substituted for advertising. In view of the deficient disclosure of the prior art, Claim 1 is neither anticipated nor rendered obvious by the prior art and should be allowed.

Applicant further contends that the claims dependent on Claim 1 are patentable, both for their dependence on an allowable base claim and for the additional subject matter they recite.

For example, with respect to Claim 3, applicant has further considered Alexander et al. However, Alexander et al. does not teach or suggest a facility by which a subscriber can elect to receive substitute advertisement services. Consequently, Alexander et al. does not cure the defects of Hite et al., Bendinelli et al. and Zigmond et al.

As a further example, Claim 7 recites a method in which the link information associated with the first advertisement is replaced with the link information associated with the second advertisement by redirecting use of the link to an address associated with the second advertisement. The Office Action cites to Bendinelli, at Col. 3, lines 21-29, as teaching the replacement of advertising link information by redirecting to an address associated with the second advertisement. Bendinelli teaches no such thing. The cited passages reads as follows:

For example, when the programming corresponds to an advertisement, the corresponding transmitted URL may identify a web site of the company or product being advertised. Similarly, news programming

may be transmitted with URLs identifying one or more web sites which describe various news items in greater detail, and music video programming may be transmitted with URLs identifying web sites of the recording company, artist or studio associated with the music video.

Bendinelli does not teach "redirecting to an address associated with the second advertisement" and hence cannot be combined with Hite and Zigmond to support a rejection of Claim 7.

Reconsideration and allowance of Claims 1-14 is requested.

Claims 15-18 and 27-28

Claim 15 is directed to an article of manufacture, comprising a machine-readable medium having instructions stored thereon. In one aspect, the instructions, when executed, cause a machine to "swap the first advertisement with the second advertisement if a subscriber has elected to receive substitute advertisement services." Claim 27 is directed to a method that includes "swapping the first advertisement with the second advertisement if a subscriber has elected to receive substitute advertisement services." The cited and applied art, alone or in combination, fails to disclose or suggest all of the elements of Claims 15 and 27. For the reasons discussed above with respect to Claim 1, Claims 15 and 27 are allowable over the prior art.

Applicant further contends that the claims dependent on Claims 15 and 27 are patentable, both for their dependence on an allowable base claim and for the additional subject matter they recite. For example, Claim 18 is directed to an article of manufacture which includes instructions to replace the link information associated with the first advertisement with the link information associated with the second advertisement by including instructions to redirect to an address related to the second advertisement. As with Claim 7 discussed above, the Office Action cited Bendinelli as disclosing the redirection to an address related to the second advertisement,

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CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100



where in fact, Bendinelli teaches nothing about redirection. The simple association of a URL with a displayed program, as taught by Bendinelli, does not suggest replacing link information by redirecting use of a link to an address of the second advertisement.

Reconsideration and allowance of Claims 15-18 and 27-28 is requested.

Claims 19-21

Claim 19 reads as follows:

19. An apparatus, comprising:

an aggregator communicatively coupled to a broadcast center of an interactive television system, the aggregator capable of aggregating at least some information related to a substitute advertisement, the aggregator further capable of sending at least some of the aggregated information to cause a swap of the substitute advertisement in place of an original advertisement that is provided to the broadcast center if a subscriber has elected to receive substitute advertisement services, wherein the swap with the substitute advertisement via use of the aggregated information includes the replacement of links in the original advertisement with links related to the substitute advertisement.

None of the cited and applied references teaches "the aggregator further capable of sending at least some of the aggregated information to cause a swap of the substitute advertisement in place of an original advertisement that is provided to the broadcast center if a subscriber has elected to receive substitute advertisement services," as claimed. An analysis of the cited art is provided above with respect to Claim 1. For the reasons discussed above with respect to Claim 1, Claim 19 is neither anticipated nor rendered obvious by the prior art and should be allowed.

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CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

Applicant further submits that the claims dependent on Claim 19 are patentable, both for their dependence on an allowable base claim and for the additional subject matter they recite. Reconsideration and allowance of Claims 19-21 is requested.

Claims 22-26

Claim 22 reads:

22. An interactive television system, comprising:
- a broadcast center to send a television signal to a client terminal via a first channel of a communication network coupled to the broadcast center, wherein prior to being sent to the client terminal, the television signal includes information related to a first advertisement present in the television signal; and
  - an aggregator communicatively coupled to a broadcast center of an interactive television system, the aggregator capable of aggregating at least some information related to a second advertisement, the aggregator further capable of sending at least some of the aggregated information to cause a swap of the second advertisement in place of first advertisement if a subscriber has elected to receive substitute advertisement services, wherein the swap with the second advertisement via use of the aggregated information includes replacement of links in the first advertisement with links related to the second advertisement.

Similar to Claim 19 above, none of the applied and cited references teaches "the aggregator further capable of sending at least some of the aggregated information to cause a swap of the second advertisement in place of the first advertisement if a subscriber has elected to

receive substitute advertisement services," as claimed in Claims 22. For the reasons discussed above, applicant requests withdrawal of the rejection of Claim 22.

Applicant further contends that Claims 23-26, which depend from Claim 22, are patentable for their dependence on an allowable base claim and for the additional subject matter recited therein. Reconsideration and allowance of Claims 22-26 is requested.

Claims 29-31

Claim 29 recites as follows:

29. An interactive television system, comprising:
- a broadcast center to send a television signal to a client terminal via a first channel of a communication network coupled to the broadcast center, wherein prior to being sent to the client terminal, the television signal includes information related to a first advertisement present in the television signal;
  - an aggregator communicatively coupled to a broadcast center of an interactive television system, the aggregator capable of aggregating at least some information related to a second advertisement, the aggregator further capable of sending at least some of the aggregated information to cause a swap of the second advertisement in place of first advertisement if a subscriber has elected to receive substitute advertisement services, wherein the swap with the second advertisement via use of the aggregated information includes replacement of links in the first advertisement with links related to the second advertisement; and
  - a unit disposed at the broadcast center to receive the aggregated information from the aggregator and, based on the received aggregated

information, to switch an output feed of the broadcast center to provide the second advertisement to a client terminal, the unit capable of replacing the links in the first advertisement with the links related to the second advertisement.

In the Office Action, the Office sought to combine the defective combination of Hite et al., Bendinelli et al. and Zigmond et al. with Hinderks. Hinderks also fails to disclose a facility by which a subscriber can elect to receive substitute advertisement services, and it, too, cannot cure the defective combination of Hite et al. Bendinelli et al., and Zigmond et al. In contrast, Claim 29 recites "the aggregator further capable of sending at least some of the aggregated information to cause a swap of the second advertisement in place of first advertisement if a subscriber has elected to receive substitute advertisement services." As with Claims 19 and 22 above, Claim 29 should be allowed.

Applicant further submits that the claims dependent on Claim 29 are patentable for their dependence on Claim 29, and for the additional subject matter recite therein. Reconsideration and allowance of Claims 29-31 is requested.

Claim 32-34

Lastly, Claim 32 recites as follows:

32. A method, comprising:  
sending one or more television signals to a client terminal via a first channel of a communication network having a plurality of different channels, wherein prior to being sent to the client terminal, the television signal includes information related to a first advertisement present in the television signal, the information capable of identifying the first

advertisement and of demarcating the beginning and ending locations of the first advertisement in the television signal;

aggregating information related to a second advertisement, the aggregated information including information indicative of one or more first advertisements that the second advertisement is to be swapped for;

sending at least some of the aggregated information related to the second advertisement to the client terminal via a second channel of the communication network, including sending at least a portion of the second advertisement to the client terminal;

correlating the information related to the first advertisement with the information related to the second advertisement to determine if the first advertisement is to be swapped with the second advertisement; and

swapping the first advertisement with the second advertisement if a subscriber has elected to receive substitute advertisement services and if the correlated information determines that a swap is appropriate, including replacing link information associated with the first advertisement with link information associated with the second advertisement, wherein the second advertisement is swapped for the first advertisement during a time period substantially corresponding to the beginning and ending locations of the first advertisement.

Applicant cannot find and the Office has failed to show where the cited and applied references teach or suggest "swapping the first advertisement with the second advertisement if a subscriber has elected to receive substitute advertisement services and if the correlated